

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AGNITA DAY,)
Plaintiff,) Case No. 2:08-cv-1520
v.) Judge Terrence F. McVerry
GIANT EAGLE,) Magistrate Judge Lisa Pupo Lenihan
Defendant.) Doc. No. 20

MEMORANDUM ORDER

The complaint in the above captioned case was received by the Clerk of Court on November 5, 2008, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (Doc. No. 26), filed on December 16, 2009, recommended that Defendant's Motion to Dismiss the Amended Complaint (Doc. No. 20) be granted to the extent the Amended Complaint requests back pay damages. The Report and Recommendation further recommended that the Motion to Dismiss be denied in all other respects (i.e., with regard to the alleged failure to file a timely Amended Complaint, pleading causes of action previously dismissed, and pleading a time-barred claim). Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 11th day of January, 2010,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendant Giant Eagle (Doc. No. 20) is **GRANTED** to the extent the Amended Complaint seeks back pay damages, and said claim is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Motion to Dismiss (Doc. No. 20) is **DENIED** in all other respects.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 26) of Magistrate Judge Lenihan, dated December 16, 2009, is adopted as the opinion of the Court.

s/ Terrence F. McVerry
TERRENCE F. McVERRY
United States District Judge

cc: Lisa Pupo Lenihan
U.S. Magistrate Judge

All Counsel of Record
Via Electronic Mail